

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TIME INC., HEARST CORPORATION, ADVANCE :  
MAGAZINE PUBLISHERS INC., AMERICAN :  
MEDIA, INC., HACHETTE FILIPACCHI MEDIA :  
U.S., INC., THE MCGRAW-HILL COMPANIES, :  
INC., NEWSWEEK, INC., SOURCE INTERLINK :  
MAGAZINES, LLC, REED BUSINESS :  
INFORMATION, A DIVISION OF REED :  
ELSEVIER INC., VARIETY, INC., REED :  
ELSEVIER PROPERTIES INC., BONNIER :  
CORPORATION, ZIFF DAVIS PUBLISHING :  
HOLDINGS INC., FORBES LLC, REIMAN MEDIA :  
GROUP, INC., RD LARGE EDITION, INC., HOME :  
SERVICE PUBLICATIONS, INC. and READER'S :  
DIGEST LATINOAMERICA SA, :  
:

Plaintiffs,

- against -

DARREN ANDREW BUDD, SALVEO LIMITED, :  
CYBERNET COMMUNICATIONS, INC., :  
SWITCHWORKS TECHNOLOGIES, INC.; :  
HAMIDULLA GHUMAL ABBAS, YOAV :  
SCHWARTZ, RICK ROSS and JOHN DOES 1-20, :  
:

Defendants. :  
----- x

08 Civ. 7392 (WHP)

ECCF CASE

**DECLARATION OF JEREMY THOMPSON IN SUPPORT OF PLAINTIFFS' MOTION  
FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

I, Jeremy Thompson, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am corporate counsel of Bonnier Corporation ("Bonnier"), one of the plaintiffs in the within infringement action. I am fully familiar with the facts stated herein. I submit this declaration in support of plaintiffs' motion for a temporary restraining order and preliminary injunction enjoining and restraining defendants Darren Andrew Budd ("Budd"), Salveo Limited ("Salveo"), Cybernet Communications, Inc. ("Cybernet"), Switchworks

Technologies, Inc. (“Switchworks”) Hamidulla Ghumal Abbas (“Abbas”), Yoav Schwartz (“Schwartz”), Rick Ross (“Ross”) and John Does 1-20 (collectively, “Defendants”) from infringing plaintiffs’ copyrights, trademarks and trade dress.

2. Bonnier is a Delaware corporation with its principal place of business at 460 N. Orlando Ave., Suite 200, Winter Park, FL 32789.

3. Bonnier owns and publishes many well known magazines, including: *Babytalk*, *Cruising World*, *Motor Boating*, *Outdoor Life*, *Parenting*, *Popular Science*, *Saveur*, *Transworld Skateboarding*, *Transworld Surf*, and *Yachting*. These magazines are distributed throughout the United States (including in New York) and worldwide.

4. The purpose of this declaration is to set forth factual information and exhibits relevant to this injunction motion.

### **Mygazines.com Is Infringing Bonnier’s Copyrights and Trademarks**

5. I first became aware of the Mygazines.com website on or about July 21, 2008, at which time the website appeared to be fully populated with uniform, high-quality digitally-scanned images of numerous magazines. Without Bonnier’s knowledge, consent or authorization, Mygazines.com was displaying full reproductions of numerous magazines owned and published by Bonnier.

6. Specifically, full digitally-scanned images of at least the following magazines owned and published by Bonnier are being displayed by defendants in their entirety on the Mygazines.com website without our consent:

(a) *Parenting*, June 2008 and August 2008. Bonnier obtained Copyright Registration No. TX 6-648-126 for the June 2008 and August 2008 issues referenced

herein on August 6, 2008. A copy of the certificate of registration is annexed hereto as part of Exhibit A.

(b) *Popular Science*, June 2008 and August 2008. Bonnier obtained Copyright Registration No. TX 6-648-127 for the June 2008 and August 2008 issues referenced herein on August 6, 2008. A copy of the certificate of registration is annexed hereto as part of Exhibit A.

c. *Outdoor Life*, May 2008 and June 2008. Bonnier obtained Copyright Registration No. TX 6-648-128 for the May 2008 and June 2008 issues on August 6, 2008. A copy of the certificate of registration is annexed hereto as part of Exhibit A.

d. *Babytalk*, Spring 2008; *Cruising World*, July 2008; *Motor Boating*, August 2008; *Popular Science*, May 2008 and September 2008; *Saveur*, January 2006, March 2006, July 2008 and September 2008; *Transworld Skateboarding*, May 2008 and August 2008; *Transworld Snowboarding*, September 2008; *Transworld Surf*, September 2008; and *Yachting*, July 2008 and August 2008.

7. Bonnier also owns trademark rights in the titles of its magazines. Specifically, Bonnier holds the following trademark registrations for its magazines:

Mark	Registration No.	Registration Date
BABY TALK	2214865	December 29, 1998
BABYTALK	3145207	September 19, 2006
<b>baby talk</b>	0661932	May 20, 1958

CRUISING WORLD	1039649	May 18, 1976
CRUISING WORLD	2108538	October 28, 1997
MOTOR BOATING	2696153	March 11, 2003
MOTORBOATING	2686199	February 11, 2003
OUTDOOR LIFE	1002765	January 28, 1975
OUTDOOR LIFE	2173508	July 14, 1998
PARENTING	1578948	January 23, 1990
PARENTING	2026010	December 24, 1996
POPULAR SCIENCE	0636827	November 6, 1956
POPULAR SCIENCE	2779282	November 4, 2003
TRANSWORLD SKATEBOARDING	2382801	September 5, 2000
TRANSWORLD SURF	2316139	February 8, 2000
TRANSWORLD SURF	2368278	July 18, 2000
YACHTING	2326200	March 7, 2000

8. Bonnier is the owner of common law trademark rights in its magazine titles as well, based on its use of its marks in commerce over the period of many years, and the

wide recognition of those marks by consumers as an indicator of the source of Bonnier's products.

9. In addition, Bonnier has rights to the trade dress of its magazines. Each magazine has a distinctive cover with a stylized logo that functions as a source indicator to consumers, and is non-functional. Mygazines.com displays the cover of *Babytalk*, *Cruising World*, *Motor Boating*, *Outdoor Life*, *Parenting*, *Popular Science*, *Saveur*, *Transworld Skateboarding*, *Transworld Surf*, and *Yachting* on the website, infringing Bonnier's trade dress in those covers.

10. Bonnier has not authorized or licensed defendants to post any content from its magazines on the Mygazines.com website

11. Indeed, Bonnier operates a web site for each of its titles, and offers some of the content available in the print editions of its magazines through those sites. Bonnier earns revenue from its websites by, among other things, offering advertising space to advertisers in conjunction with Bonnier's content. By offering the same content to consumers on its site, for free, Mygazines.com directly competes with Bonnier's websites.

12. Bonnier also offers digital editions of some of its magazines for sale through online partners such as Zinio.com. At Zinio.com, consumers may view, for a fee, digital editions of select Bonnier magazines, in much the same format as is offered by Mygazines.com. For this reason, Mygazines.com also competes directly with Bonnier's digital publications offered through its online partners.

**Bonnier Gave Defendants Notice of Their Infringing Activity**

13. On August 6, 2008, on behalf of Bonnier, we wrote to defendant Salveo, the registered owner of Mygazines.com, at the address listed on its domain registration and its email address, demanding that it cease and desist from providing Bonnier's works to the public, in any form.

14. On August 6, 2008, we wrote to defendant Cybernet at the address listed on its website, and to its email address, demanding that it immediately disable access to the Mygazines.com website or, at a minimum, block access specifically to the magazines published by Bonnier.

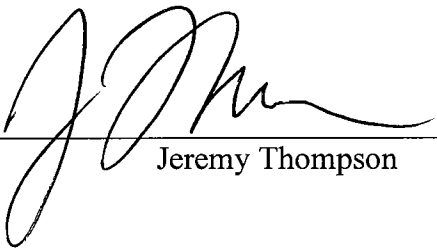
**Defendants' Conduct is Causing Bonnier Irreparable Harm**

15. This application is brought on by way of Order To Show Cause because expedited relief is necessary due to the irreparable harm Bonnier is suffering and will suffer from defendants' continued infringement of Bonnier's copyrights, trademarks and trade dress.

16. Bonnier is suffering irreparable harm from defendants' actions. Defendants are engaging in the wholesale theft of the content and appearance of Bonnier's magazines, from which Bonnier is likely to experience lost sales, and the loss of reputation and goodwill. Our magazines are the result of the creative vision and hard work of scores of professionals, which defendants appropriate and distribute for their own ends. This conduct undermines the entire magazine industry.

**WHEREFORE**, for the foregoing reasons, together with those set forth in the accompanying summons and complaint, declarations of other plaintiffs, and memorandum of law, your deponent respectfully prays for a temporary restraining order and preliminary injunction enjoining and restraining defendants from distributing or displaying Bonnier's magazines, and from inducing and encouraging its users to upload our content.

Dated: August 18, 2008



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Jeremy Thompson

Exhibit A  
To  
Declaration of Jeremy Thompson



## Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*

Register of Copyrights, United States of America

**Form SE/Group**  
UNITED STATES COPYRIGHT OFFICE

TX 6-648-126



EFFECTIVE DATE OF REGISTRATION

**AUG 06 2008**

APPLICATION RECEIVED

**AUG 06 2008**

ONE DEPOSIT RECEIVED

**AUG 06 2008**

EXAMINED BY

CORRESPONDENCE ☐

DO NOT WRITE ABOVE THIS LINE.

**1**

List  
in order of  
publication

No  
previous  
registration  
under  
identical  
title

TITLE ▼

Parenting

ISSN ▼

0890-247X

Volume ▼	Number ▼	Issue date on copies ▼	Month, day, and year of publication ▼
1. X001	7	August 2008	July 15, 2008
2. X001	5	June 2008	May 13, 2008
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			

**2**

NAME AND ADDRESS OF THE AUTHOR/COPYRIGHT CLAIMANT IN THESE COLLECTIVE WORKS MADE FOR HIRE ▼

The Parenting Group, Inc.  
c/o Bonnier Corporation, 460 N. Orlando Avenue, Suite 200, Winter Park, FL 32789.

FOR NON-U.S. WORKS: Author's citizenship ▼

Domicile ▼

Nation of publication ▼

**CERTIFICATION:** I, the undersigned, hereby certify that I am the copyright claimant or the authorized agent of the copyright claimant of the works identified in this application, that all the conditions specified in the instructions on the back of this form are met, that I have deposited two complimentary subscription copies with the Library of Congress, and that the statements made by me in this application are correct to the best of my knowledge.

Handwritten  
signature (X)

Typed or  
printed name Jeremy M. Thompson

PERSON TO CONTACT FOR CORRESPONDENCE ABOUT THIS CLAIM

Name Mia Sykes, Paralegal

Daytime telephone 407-571-4963

Address (if other than given below)

Fax 407.571.4719

Email mia.sykes@bonniercorp.com

Certificate  
will be  
mailed  
in window  
envelope  
to this  
address:

Name ▼

Bonnier Corporation, Attn: Mia Sykes, Paralegal

Number/Street Apt ▼

460 N. Orlando Avenue, Suite 200

City/State/Zip ▼

Winter Park, FL 32789

DEPOSIT ACCOUNT

Account number 187440

Name of account Bonnier Corporation

Attn: Mia Sykes

Library of Congress  
Copyright Office  
101 Independence Avenue SE  
Washington, DC 20558-6000

\*17 USC §508(c): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 408, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

## Certificate of Registration



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DO NOT WRITE ABOVE THIS LINE.

**1**

List  
in order of  
publication

No  
previous  
registration  
under  
identical  
title



TITLE ▼

Popular Science

ISSN ▼

0161-7370

	Volume ▼	Number ▼	Issue date on copies ▼	Month, day, and year of publication ▼
1.	273	2	August 2008	7-15-08
2.	272	6	June 2008	6-13-08
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				

**2**

NAME AND ADDRESS OF THE AUTHOR/COPYRIGHT CLAIMANT IN THESE COLLECTIVE WORKS MADE FOR HIRE ▼

Bonnier Active Media, Inc.  
460 N. Orlando Avenue, Suite 200, Winter Park, FL 32707

FOR NON-U.S. WORKS: Author's citizenship ▼

Domicile ▼

Nation of publication ▼

**CERTIFICATION:** I, the undersigned, hereby certify that I am the copyright claimant or the authorized agent of the copyright claimant of the work identified in this application, that all the conditions specified in the instructions on the back of this form are met, that I have deposited two complimentary subscription copies with the Library of Congress, and that the statements made by me in this application are correct to the best of my knowledge.

Handwritten  
signature (X)

*Jeremy M. Thompson*

Typed or  
printed name

Jeremy M. Thompson

PERSON TO CONTACT FOR CORRESPONDENCE ABOUT THIS CLAIM

Name Mia Sykes, Paralegal

Daytime telephone 407-571-4963

Address (if other than given below)

Fax 407-571-4963

Email

mia.sykes@bonniercorp.com

Certificate  
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address:

Name ▼

Bonnier Corporation, Attn: Mia Sykes, Paralegal

Number/Street/Apt ▼

460 N. Orlando Avenue, Suite 200

City/State/Zip ▼

Winter Park, FL 32789

DEPOSIT ACCOUNT

Account number 87440

Name of account Bonnier Corporation

Attn: Mia Sykes

LIBRARY

Library of Congress  
Copyright Office  
101 Independence Avenue SE  
Washington, DC 20540-8000

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*Marybeth Peters*

Register of Copyrights, United States of America

**Form SE/Group**  
UNITED STATES COPYRIGHT OFFICE

TX 6-648-128



EFFECTIVE DATE OF REGISTRATION

**AUG. 06 2008**

APPLICATION RECEIVED

**AUG 06 2008**

ONE DEPOSIT RECEIVED

**AUG 06 2008**

EXAMINED BY

CORRESPONDENCE ☐

\* On Copy: Vol. 215

DO NOT WRITE ABOVE THIS LINE.

**1**

List  
in order of  
publication

No  
previous  
registration  
under  
identical  
title

TITLE ▼

Outdoor Life

ISSN ▼

0030-7076

Volume ▼	Number ▼	Issue date on copies ▼	Month, day, and year of publication ▼
1. 215	8	June/July 2008	5-27-08
2. 216 *	5	May 2008	4-22-08
3.			
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11.			
12.			
13.			
14.			

**2**

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460 N. Orlando Avenue, Suite 200, Winter Park, FL 32707

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Domicile ▼

Nation of publication ▼

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signature (X)

*Jeremy M. Thompson*

Typed or  
printed name

Jeremy M. Thompson

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Name ▼

Bonnier Corporation, Attn: Mia Sykes, Paralegal

Number/Street/Apt ▼

460 N. Orlando Avenue, Suite 200

City/State/Zip ▼

Winter Park, FL 32789

DEPOSIT ACCOUNT

Account number 57440

Name of account Bonnier Corporation

Attn: Mia Sykes

MAIL TO

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